

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

C.M.A.No.119 of 2011

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 ('the Act', for brevity), is filed by the appellants-applicants, challenging the order, dated 10.11.2010, passed in M.A.No.33 of 2009 in O.A.II(U).No.428 of 2008 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellants-applicants, the learned Standing Counsel for the respondent-Railways and perused the record.

3. The learned counsel for the appellants-applicants would contend that there is sufficient cause to condone the delay of 1220 days in filing the claim petition. The Tribunal had not adverted to the facts and circumstances of the case and erroneously dismissed the application and ultimately, prayed to set aside the impugned order and condone the delay of 1220 days.

4. On the other hand, the learned counsel for the respondent-Railways would contend that no sufficient cause has been shown. The delay is abnormal. The Tribunal rightly dismissed the application and ultimately, prayed to dismiss the appeal.

5. In view of the submissions made by both sides, the points that arise for determination are as follows:

Whether the impugned order dated 10.11.2010 passed by the Tribunal in M.A.No.33 of 2009 in O.A.II(U).No.428 of 2008 is liable to be set aside and the delay of 1220 days can be condoned?

6. The learned counsel for the applicants relied on the decision reported in *Chekka Shantha Kumari v. Union of India*¹, wherein the delay of 2190 days was condoned and it was held that in the interest of rendering substantial justice, the delay, even though very long, should be condoned.

7. On the other hand, the learned counsel for the respondent-railway authorities relied on the decision reported in *P.K.Ramachandran v. State of Kerala and another*², wherein it was held that law of limitation has to be applied with all its rigour prescribed by the statute. The Courts have no power to extend period of limitation on equitable grounds.

8. The reason for the delay stated in the affidavit filed by the 1st applicant is that her husband was only the source of their livelihood. She was not aware of the fact that the claim petition is to be filed within a period of one year from the date of accident. In that process, the delay of 1220 days occurred.

9. The Tribunal while dealing with the matter held that the limitation for filing the application to grant compensation in respect of railway accident is one year. However, the delay of 1220 days is abnormal. The reason stated by the 1st applicant was that she does not know the rules of limitation. Ignorance of law is not an excuse. The Tribunal also recorded the contentions of the respondent-railways that the documents are not available as abnormal delay is caused.

¹ I(2006) ACC 514

² AIR 1998 SC 2276

10. In view of the aforesaid judgment in *P.K.Ramachandran* (2 supra) and as there is no specific and sufficient cause, it is not proper to condone the abnormal delay. The appeal is devoid of merit and is liable to be dismissed.

11. In the result, the appeal is dismissed. No costs.

Miscellaneous Petitions pending, if any, in this appeal shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 25.10.2018
ssp

